RB-2008-01 Guidance on Advertising

September 30, 2008

ADVERTISING

It has come to our attention that some credit unions have engaged in very liberal advertising campaigns using such superlatives as "most secure," "strongest," and "safest" or that play on public fears about other types of financial institutions. We have received complaints about these ads since the claims convey information that typically is impossible to quantify or justify. While we recognize the competitive pressures in the financial services industry and the efforts of credit unions to differentiate products and services, we believe that this form of advertising is inappropriate and, in some cases, represents a violation of state and federal laws.

7 TAC Section 91.125 provides, among other things, that an advertisement shall be deemed to be misleading if it states that the credit union's services are superior to or of a higher quality than that of another financial institution unless the credit union can factually substantiate the statement. Advertising that implies that federally-insured funds may be more or less safe depending on where they are deposited is a clear misrepresentation of federal share and deposit insurance. Federal share and deposit insurance protection applies equally to all insured accounts regardless of the relative strength or financial performance of the institution.

Comparisons of the relative strengths of institutions is subjective and is frequently based on only a few criteria that fail to represent an institution's overall performance. Furthermore, claims of superiority evoke counterproductive rebuttal comparisons and serve to deteriorate the public's confidence in the federal share and deposit insurance system. While no one can ignore the tumultuous times that the financial services industry is experiencing, we believe that it is a mistake for financial institutions to work against one another publicly, particularly by playing on public fears. Given the current environment in which financial institutions are operating, it behooves credit unions to advocate the strengths of their products and services rather than denigrating others.

Whether we like it or not, we must face the fact that consumer confidence is the cornerstone of the financial system. Maintaining this confidence is the responsibility, and should be the utmost priority, of all credit unions as well as this Department.

Based on the many telephone calls we receive each week from consumers, it is clear that the public's main concern is "Are my funds insured?" The fundamental determinant of safety in the public's mind continues to be the insurance guarantee. Beyond that, few credit union members are in a position to evaluate and compare the relative merits of one financial report over another. Since any federally-insured account is exactly as safe as any other one, we strongly believe it is in the best interest of credit unions to emphasize insured safety, rather than exacerbating negative press coverage by suggesting that consumers should be anxiety-ridden and sleepless if their funds are on deposit elsewhere. The erosion of public confidence is a high-risk problem for all of us. For credit unions making advertising claims that cannot be substantiated, corrective action will be required under 7 TAC Section 91.125. We request your cooperation in initiating any

needed corrective measures in order to preserve the public's confidence in the federal share and deposit insurance system.